REMARKS/ARGUMENTS

This is a full and timely response to the Final Office Action dated July 31, 2009. Prior to the issuance of the present Office Action, Claims 1-29 were pending. In the present response, Claims 5, 15 and 22 have been amended to clarify the respective inventions. It is respectfully submitted that pending Claims 1-29 are patentable over the cited art. As such, Applicants respectfully request reconsideration and allowance of the present claims in light of the following remarks.

Substance of an Examiner Interview

Applicants wish to thank the Examiner for a telephonic interview on September 21, 2009. In the interview, the Applicant's attorney and the Examiner discussed the Rickli and Somoza references and each party's understanding of the claims in the pending application. Discussions focused primarily on Claims 1, 4, 5 and 8. This response includes the arguments presented by the Applicant's attorney.

35 U.S.C. §103

Independent Claim 1

At page 2 of the Office Action, the Examiner has asserted that independent Claim 1 is unpatentable in view of U.S. Patent No. 5,481,588 issued to Rickli ("Rickli"), U.S. Patent No. 6,336,035 issued to Somoza ("Somoza") and U.S. Patent No. 5,805,996 to Salmela ("Salmela"). It is respectfully asserted that the Rickli, Somoza, and Salmela patents, either alone or in combination, do not disclose or suggest each of the features recited in Claim 1. For example, these references fail to disclose or suggest the concept of "identifying one or more optimal routes from among said plurality of routes based on the results of said comparing, said optimal routes comprising those most nearly satisfying said test parameters *including said time parameter and said geographic parameter.*"

As noted in the Examiner Interview Summary, the Examiner asserts that Rickli at Column 5, lines 14-29 discloses establishing test parameters including a time parameter **or** a geographic parameter. (*See* Examiner Interview Summary, October 9, 2009). The Applicants

respectfully submit that Claim 1 requires test parameters that include "said time parameter *and* said geographic parameter" as opposed a time parameter **or** a geographic parameter.

The Applicants respectfully assert that the section of Rickli cited by the Examiner actually teaches away from using *both* a time and a geographic parameter. Column 5, lines 14-32 from Rickli are reproduced below for the Examiner's convenience.

> The test is not tied to particular routes. On the contrary, *connections are established in a fixed time frame. The exact location of the test unit at a particular point in time is a random factor. However, the connections may also be established on a preprogrammed basis at specified locations. The point in time at which this is done will then be more or less random,* but may be an interesting measured value. The evaluation of the large number of calls gives the required basis for the assessment of service quality. The test mobile remote unit 16--in a practical application, several such units will generally be in operation simultaneously--is habitually operated from a vehicle which is selected for the test. Suitable vehicles include in the first instance those operated by courier services, taxis etc. which regularly travel within the area on arbitrary or random routes. Refuse disposal trucks are another suitable category of vehicle as the fleet of such circulating trucks covers the totality of a given territory.

(emphasis added). Rickli explains that in its system, either the location of the testing unit will be a random factor or the time of the test will be a random factor. Thus, someone skilled in the art would be discouraged from using *both* a time and a geographic parameter in determining a route because at least one of these parameters would be random.

Applicants further note that the Office Action cites Somoza for the concept of identifying one or more optimal routes from among a plurality of routes. The Somoza patent, however, does not mention using a time parameter in determining its new drive test route. In particular, Somoza discloses that the "[d]rive test route selection is based on the proximity of a street to an antenna at a cellsite and may take into account possible architectural clutter interference and

potential high traffic areas within the cell." (Somoza, Column 9, Lines 4-8). Thus, Somoza does not disclose or suggest this concept.

Finally, Salmela does not disclose using time and geographic parameters to select an optimum route. The Applicants note that Salmela has only been cited for the proposition that the demand for cellular service varies based on time.

In summary, the cited references discussed above fail to disclose or suggest the concept of "identifying one or more optimal routes from among said plurality of routes based on the results of said comparing, said optimal routes comprising those most nearly satisfying said test parameters *including said time parameter and said geographic parameter.*" For at least this reason, the Applicants respectfully request the Examiner withdraw his rejection.

Dependent Claim 4

Applicants respectfully submit that the Rickli, Somoza, and Salmela references cited in the Office Action do not disclose or suggest thé further concept recited in dependent Claim 4. Claim 4 depends from Claim 2 which depends from Claim 1 and adds the concept of "wherein said route data includes a start time corresponding to said start location, an end time corresponding to said end location, and *one or more intermediate stop durations* corresponding to said one or more intermediate stop locations." As required by Claim 1, the dispatch plan includes "route data." The intermediate stop durations added by Claim 4 are included in the "route data" and therefore are also included in the dispatch plan. The cited references do not disclose a dispatch plan that "compris[es] vehicle data and route data" in which the route data includes "one or more intermediate stop durations."

The Office Action states that Fig. 5 and Col. 8, lines 34-35 in Somoza discloses route data that includes a start time, an end time and one or more intermediate stop durations. (*See* Office Action, p. 6). The identified section of Somoza is reproduced below for the Examiner's convenience.

"User location data 530 identifies the location of a user within the cell at a particular time. This data is represented as a sphere in FIG 5."

(Col. 8, lines 34-35). FIG. 5 in Somoza shows spheres **530** scattered throughout the map. The Applicants respectfully submit that the "user location data **530**" is fundamentally different from the route data specified in Claim 4. First, the route data, in Claim 4, is part of a dispatch plan that assigns vehicles to particular routes (*see* Claim 1). There is no suggestion that the "user location data 530" is part of a dispatch plan that assigns vehicles to particular routes. Rather, it is respectfully submitted that the "user location data" is simply the location of a cellular subscriber at a particular point in time. (*See e.g.,* Col. 5, lines 57-62). Furthermore, there is no suggestion that the user location data includes a start time, an end time or one or more intermediate stop durations.

For at least this reason, the Applicants respectfully request the Examiner to withdraw this rejection.

Dependent Claim 5

Applicants respectfully assert that Rickli, Somoza, and Salmela do not disclose or suggest the further concept recited in Claim 5. Claim 5 depends from Claim 4 which depends from Claim 2 which depends from Claim 1. Claim 5 has been amended to clarify that "wherein the optimal routes comprise those most nearly satisfying said test parameters including said time parameter, said geographic parameter, and *said linger parameter*." Thus, the linger parameter is used to identify optimal routes. The Office Action cites the user location data **530** as disclosing a linger parameter. (*See* Office Action, p. 6 citing Somoza Col. 8, lines 34-35). The Applicants respectfully submit that the user location data **530** is independent of the identification of the new drive test route in Somoza. This proposition is supported by Fig. 5 of Somoza which shows the user location data **530** as circles scattered on a map with no apparent connection to the drive test route. Somoza selects a new drive test route based on the location of a street relative to an antenna, architectural clutter, and potential high traffic areas within a cell. (*See* Somoza, Col. 9, lines 4-8).

Similarly, Rickli also fails to disclose or suggest this concept. The Office Action cites to a portion of Rickli with reference to Claim 5 that discusses storing location and time data during a drive test. Once again, this data is not used to determine an optimum route and therefore cannot satisfy the linger duration concept of Claim 5.

The Applicants note that Salmela is directed to a base station antenna and does not disclose selecting routes for drive tests. Accordingly, Salmela also fails to disclose the concept recited in Claim 5.

Thus, the Rickli, Somoza, and Salmela references do not disclose the linger duration concept recited in Claim 5. For at least this reason, the Applicants respectfully request the Examiner to withdraw this rejection.

Dependent Claim 8

Claim 8 depends from Claim 1 and recites the further concept of "wherein said step of establishing test parameters further comprises: assigning a weight to one or more of said test parameters, each of said weights correlated to the importance of said one or more of said test parameters relative to the others." Rickli, Somoza, and Salmela do not disclose or suggest the concept added by dependent Claim 8. The Applicants note that the Office Action only cites Rickli against Claim 8. The portions of Rickli cited in the Office Action, however, do not disclose assigning weights to test parameters. The first cited section of Rickli merely discloses that the quality of a mobile radio installation is tested using a mobile remote unit, which can determine its position and clock time (*see* Col. 2, Lines 44-48). The second cited section of Rickli discloses that the term clock within the system can register date and time. This data may be transferred to a control unit, which evaluates the data statistically (*see* Col. 3, Lines 33-36). The final section of Rickli cited in the Office Action discloses that a particular area may be tested using a plurality of vehicles (*see* Col. 4, Lines 60-65). None of these sections disclose the application of weights to testing parameters.

Applicants further note that Somoza and Salmela also fail to disclose the assigning of weights to test parameters. Thus, the cited art does not disclose or suggest the weighting concept recited in Claim 8. For at least this reason, the Applicants respectfully request the Examiner to withdraw this rejection.

Dependent Claims 2, 3, 6, 7, 9, and 10

Claims 2, 3, 6, 7, 9, and 10 depend from independent Claim 1 and therefore include all of the concepts of independent Claim 1 plus additional concepts that are not disclosed in the prior

art. Accordingly, for this reason and for the reasons stated above, Claims 2, 3, 6, 7, 9, and 10 are patentably distinct from the cited art.

Independent Claim 11

At page 7, the Office Action states that independent Claim 11 is unpatentable in view Rickli, Somoza, and Salmela. Applicants respectfully assert that Rickli, Somoza, and Salmela, alone or in combination, fail to disclose or suggest each of the concepts recited in Claim 11. For example, Rickli, Somoza, and Salmela fail to disclose or suggest the concept of "a fourth executable portion configured to identify one or more optimal routes from among said plurality of routes based on the results of said third executable portion, said optimal routes comprising those most nearly satisfying said test parameters *including said time parameter and said geographic parameter*" as recited in amended Claim 11. Applying the same reasoning as set forth above with reference to Claim 1, Rickli discloses that, in its drive tests, either the location or the time of the test is a random factor. Therefore, the Rickli system could not use *both* time and location as test parameters in determining an optimum route as would be required by amended Claim 11. Furthermore, the Somoza patent does not mention using a time parameter in determining its new drive test route. Salmela also fails to disclose this concept. Accordingly, Rickli, Somoza, and Salmela do not disclose or suggest all of the concepts recited in Claim 11, and the Applicants respectfully request the Examiner to withdraw the present rejection.

Dependent Claim 14

Claim 14 depends from Claim 12 which depends from Claim 11. Claim 14 adds the concept of "wherein said second executable portion is further configured to store route data including a start time corresponding to said start location, an end time corresponding to said end location, and *one or more intermediate stop durations* corresponding to said one or more intermediate stop locations." Applying the same reasoning as set for with respect to Claim 4, the user location data feature cited in the Office Action is not part of a dispatch plan and in fact is independent of the new drive test route generated by the Somoza system. Thus, the user location data feature of Somoza cannot satisfy the further concept recited in Claim 14 as set forth in the

Office Action. Accordingly, the Applicants respectfully request the Examiner to withdraw the present rejection.

Dependent Claim 15

Claim 15 has been amended and depends from Claim 14 and adds the concept of "wherein the optimal routes comprise those most nearly satisfying said test parameters including said time parameter, said geographic parameter, and said linger parameter." Applying the reasoning set for with respect to Claim 5, the user location data feature in Somoza is not used as a test parameter in the selection of an optimum route and therefore cannot satisfy the linger duration concept. Similarly, the storing of location and time data as disclosed in Rickli cannot satisfy the linger duration concept either because the stored data cannot be used to determine an optimum route. Likewise, Salmela also fails to disclose this concept. Accordingly, Rickli Somoza, and Salmela alone or in combination, fail to disclose or suggest the further concept recited in Claim 15. The Applicants respectfully request the Examiner to withdraw this rejection.

Dependent Claim 17

Claim 17 depends from Claim 11 and adds the concept of "wherein said first executable portion is further configured to store a weight assigned to one or more of said test parameters, each of said weights correlated to the importance of said one or more of said test parameters relative to the others." Applying the reasoning set forth with respect to Claim 8, Rickli, Somoza, and Salmela, alone or in combination, fail to disclose or suggest the further concept recited in Claim 17. Accordingly, the Applicants respectfully request the Examiner to withdraw this rejection.

Dependent Claims 12, 13, and, 16,

Claims 12, 13, and 16 depend from independent Claim 11 and therefore include all of the concepts of independent Claim 11 plus additional concepts that are not disclosed in the prior art. Accordingly, for this reason and for the reasons stated above, Claims 12, 13, and 16 are patentably distinct from the cited art.

Independent Claim 18

At page 8, the Office Action states that independent Claim 18 is unpatentable in view of Rickli and Somoza. Applicants respectfully assert that Rickli, Somoza, and Salmela alone or in combination, fail to disclose or suggest each of the concepts recited in amended independent Claim 18. For example, Rickli, Somoza, and Salmela fail to disclose or suggest the concept of "means for identifying one or more optimal routes from among said plurality of routes based on results from said comparing means, said optimal routes comprising those most nearly satisfying said test parameters including a time parameter and a geographic parameter, wherein said time parameter comprises a time-of-day testing window" as recited in amended Claim 18. Applying the same reasoning as set forth above with reference to Claim 1, Rickli discloses that, in its drive tests, either the location or the time of the test is a random factor, and therefore, the Rickli system could not use *both* time and location as test parameters in determining an optimum route as would be required by amended Claim 18. Furthermore, the Somoza patent does not mention using a time parameter in determining its new drive test route and Salmela fails to disclose this concept as well. Accordingly, Rickli, Somoza, and Salmela do not disclose or suggest all of the concepts recited in amended Claim 18. The Applicants respectfully request the Examiner to withdraw the present rejection.

Dependent Claim 21

Claim 21 depends from Claim 18 and adds the concept of "wherein said route data includes a start time corresponding to said start location, an end time corresponding to said end location, and *one or more intermediate stop durations* corresponding to said one or more intermediate stop locations." Applying the same reasoning as set for with respect to Claim 4, the user location data feature cited in the Office Action is not part of a dispatch plan and in fact is independent of the new drive test route generated by the Somoza system. Thus, the user location data feature of Somoza cannot satisfy the further concept recited in Claim 21 as argued in the Office Action. Accordingly, the Applicants respectfully request the Examiner to withdraw the present rejection.

Dependent Claim 22

Claim 22 depends from Claim 21 and adds the concept of "wherein the optimal routes comprise those most nearly satisfying said test parameters including said time parameter, said geographic parameter, and said linger parameter." Applying the reasoning set for with respect to Claim 5, the user location data feature in Somoza is not used as a test parameter in the selection of an optimum route and therefore cannot satisfy this claim element. Similarly, the storing of location and time data as disclosed in Rickli cannot satisfy this element either because the stored data cannot be used to determine an optimum route. Accordingly, Rickli, Somoza, and Salmela alone or in combination, fail to disclose or suggest the further concept recited in Claim 22, and the Applicants respectfully request the Examiner to withdraw this rejection.

Dependent Claim 25

Claim 25 depends from Claim 18 and adds the concept of "a weight assigned to one or more of said test parameters, each of said weights correlated to the importance of said one or more of said test parameters relative to the others." Applying the reasoning set forth with respect to Claim 8, Rickli, Somoza, and Salmela alone or in combination, fail to disclose or suggest the further concept recited in Claim 25. Accordingly, the Applicants respectfully request the Examiner to withdraw this rejection.

Dependent Claims 19, 20, 23, 24 and 26-28

In addition to the arguments presented above, Claims 19, 20, 23, 24 and 26-28 depend from independent Claim 18 and therefore include all of the concepts of independent Claim 18 plus additional concepts that are not disclosed in the prior art. Accordingly, for this reason and for the reasons stated above, Claims 19, 20, 23, 24 and 26-28 are patentably distinct from the cited art.

New Claim 29

Applicants have added new independent Claim 29, which includes the concept of "identifying one or more optimal routes from among said plurality of routes based on results from said comparing means, said optimal routes comprising *those most nearly satisfying said test*
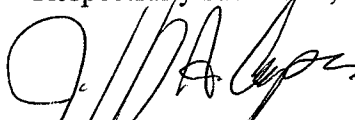
parameters including a time parameter and a geographic parameter, wherein the time parameter comprises a time-of-day testing window." Applying the reasoning set forth with respect to Claim 1, Rickli, Somoza, and Salmela do not disclose the concept of using both a time parameter and a geographic parameter in selecting an optimum route as recited in Claim 29. Accordingly, the Applicants respectfully request the Examiner to withdraw this rejection.

CONCLUSION

The foregoing is submitted as a full and complete response to the Office Action mailed on July 31, 2009. The Applicants respectfully submit, in light of the foregoing remarks, that the present application is in condition for allowance, and such action is respectfully requested.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

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